

**STATE OF RHODE ISLAND CITY OF EAST PROVIDENCE
COUNTY OF PROVIDENCE ZONING BOARD OF REVIEW**

MINUTES

A meeting of the East Providence Zoning Board of Review was held at 7:00 P.M., on Wednesday, 3 December 2014, in the City Council Chambers, East Providence City Hall.

The following members were present:

Eugene Saveory – Chairman

Michael Beauparlant – Vice-Chairman

John Braga

Pier-Mari Toledo - ABSENT

Antonio H. Cunha

Richard Croke, Sr. – 1st Alternate

Gary Pascoa – 2nd Alternate - ABSENT

Edward Pimentel – Zoning Officer / Clerk

Gregory Dias – Assistant City Solicitor

Chairman Saveory then announces that it is the policy of the Zoning Board of Review to caution all petitioners that they have the right to counsel before the Board and failure to do so at this time does not constitute sufficient grounds for a change in circumstances under the

eighteen-month repetitive petition clause. All petitioners are also cautioned that if the petition is approved, all construction must be done in compliance with the submitted plan(s), application and testimony presented to the Zoning Board of Review. A change of any sought must obtain the requisite approval of the Zoning Board of Review. All work that deviates from the approval will be ordered halted and promptly removed. Comments will be limited to the petition being heard and no comments will be heard that do not pertain to an item scheduled on tonight's docket. He also notes that it is the policy of the Board that no new agenda item will be heard after 10:30 PM.

Chairman Saveory also notes that the Board welcomes any commentary from the public provided it solely pertains to an item on tonight's docket.

A. Swearing in of the Zoning Officer

Chairman Saveory asks Assistant City Solicitor Dias to swear in the Zoning Officer, Mr. Pimentel.

II. SEATING OF ALTERNATE MEMBERS

Chairman Saveory informs the public that Ms. Toledo is absent, and therefore Mr. Croke, 1st Alternate, will be both a participating as well

as voting member on all of tonight's agenda items.

Chairman Saveory then informs the public that Mr. Pascoa, 2nd Alternate, is likewise absent.

III. APPROVAL OF ZONING BOARD MINUTES

Chairman Saveory announces that there are no minutes for approval.

IV. ZONING OFFICER'S REPORT

Chairman Saveory announces that there is no report this month.

V. CORRESPONDENCE / DISCUSSION

A. 6 Drowne Parkway – request for continuance to review redesign.

Zoning Officer informs the Board that the subject applicant is seeking permission to continue her petition for one month to revise the submission. Zoning Officer reads the referenced request into the record.

Motion by Mr. Beauparlant to continue the subject petition to the 7

January 2015, regularly scheduled meeting of the Zoning Board of Review. The motion is Seconded by Mr. Croke, and Unanimously approved.

Zoning Officer informs the public that no further notice or advertising will be provided. Anyone with an interest in the subject petition, should be aware of the continuance date.

B. 900 Veterans Memorial Parkway – Formal objection by immediate abutter.

Chairman Saveory informs the public that the referenced letter of objection will be properly read into the record when that particular petition is discussed.

VI. STAFF REPORTS

A. Planning Department Staff Report – Previously Submitted. Only the Continued Business is provided due to scheduling conflicts, the holidays, and unique timing between last month's and the current zoning hearing.

B. Complaint List – November 2014.

Chairman Saveory announces that the referenced documents are

already rendered part of the official record.

VII. CONTINUED BUSINESS

1. Petition No. 6559: Trustees of Methodist Health & Welfare Services, seek Dimensional Relief, to permit subdivision of an existing nursing home operation and assisted living facility by means of a two-lot minor subdivision, without complying with the certain dimensional criteria, for property located at 40 Irving Avenue and 30 Alexander Avenue, being Map 305, Block 15, Parcel 001.00 and 004.10, and located within a Residential 5 District.

PROPOSED DESIGNATED PARCEL I

A. Dimensional Variance, to permit the referenced subdivision, resulting in a portion of the off-street parking area being maintained (pre-existing condition) within the requisite front-yard setback pursuant to Section 19-135(1) – Ten (10) foot variance, resulting in the parking fronting Mowry Avenue being situated approximately ten (10) feet off of the Mowry Avenue public right-of-way.

B. Dimensional Variance, to permit the referenced subdivision, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Fifteen (15) foot dimensional variance, resulting in the Winslow Gardens Assisted Living Facility being

situated within zero (0) feet of the westerly (side) property boundary.

C. Dimensional Variance, to permit the referenced subdivision, resulting in exceeding the maximum building coverage requirement pursuant to Section 19-145 – One and four-tenths (1.40) percent dimensional variance, resulting in the Winslow Gardens Assisted Living Facility property being covered approximately twenty-six and four-tenths (26.40%) percent with total structures.

D. Dimensional Variance, to permit the referenced subdivision, resulting in exceeding the maximum impervious lot coverage requirement pursuant to Section 19-145 – Sixteen (16) percent dimensional variance, resulting in the Winslow Gardens Assisted Living Facility property being covered approximately sixty-one (61%) percent with total impervious surface, inclusive of all structures.

E. Dimensional Variance, to permit the referenced subdivision, resulting in failure to provide adequate trash storage (dumpster area) pursuant to Section 19-261 – One (1) trash storage area dimensional variance, subject operation failing to have any trash storage area.

[NOTE: Sufficient trash storage is provided for on the adjacent Linn Health Care Center property. The applicant did provide evidence of the recorded cross easements to access said trash storage area.]

F. Dimensional Variance, to permit the referenced subdivision,

without complying with the minimum provision of off-street parking pursuant to Section 19-284(a) – Twenty-four (24) off-street parking space dimensional variance, resulting in the provision of forty-six (46) spaces.

[NOTE: There is surplus parking situated on adjacent proposed Parcel II – upwards of 50-space surplus. The Zoning Board of Review pursuant to the discretion afforded the Zoning Ordinance may approve parking within 400-feet of the subject property, provided a surplus is evidenced and said parking is deed restricted. The applicant did provide evidence of the recorded cross and off-street parking easements]

G. Dimensional Variance, to permit the referenced subdivision, resulting in dimensionally deficient off-street loading pursuant to Section 19-289 – Two (2) foot width dimensional variance, resulting in the referenced off-street loading space having approximate dimensions of ten (rather than a regulatory twelve) feet in width by forty-four feet in length.

PROPOSED DESIGNATED PARCEL II

A. Dimensional Variance, to permit the referenced subdivision, resulting in a portion of the off-street parking area being maintained

(pre-existing condition) within the requisite front-yard setback pursuant to Section 19-135(1) – Ten (10) foot variance, resulting in the parking fronting Mowry Avenue being situated approximately ten (10) feet off of the Mowry Avenue public right-of-way.

B. Dimensional Variance, to permit the referenced subdivision, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 – Fifteen (15) foot dimensional variance, resulting in the Linn Health Care Center being situated within zero (0) feet of the easterly (side) property boundary.

C. Dimensional Variance, to permit the referenced subdivision, resulting in exceeding the maximum impervious lot coverage requirement pursuant to Section 19-145 – Thirty (30) percent dimensional variance, resulting in the Linn Health Care Center property being covered approximately seventy-five (75%) percent with total impervious surface, inclusive of all structures.

D. Dimensional Variance, to permit the referenced subdivision, resulting in the present trash storage area (dumpster area) being maintained within the requisite front-yard setback pursuant to Section 19-261(b)(1) – Ten (10) foot dimensional variance, resulting in the referenced trash storage area being maintained within approximately ten (10) feet of the Mowry Avenue public right of way (northerly property boundary).

E. Dimensional Variance, to permit the referenced subdivision, resulting in failure to provide sufficient off-street loading pursuant to Section 19-289 – One (1) off-street loading space dimensional variance, the subject operation having no loading spaces.

[NOTE: Sufficient off-street loading is provided for on the adjacent Winslow Gardens property. The applicant did provide evidence of the recorded cross easements to access said off-street loading area.]

Attorney Dylan Conley, with the Law Office of William Conley, informs the Board that he is counsel to the subject petitioner.

Attorney Conley informs the Board that this is perhaps one of the most unique petitions ever presented, because no change is proposed – no building permits or any other physical action will be necessary. The relief sought is merely to effectuate a two-lot subdivision that everyone believed has already taken place in the late 1970's during prior zoning action. There was reliance on that action and the recording of certain documents. It was only recently during an investigation by bond counseling of all recorded documents for the purpose of securing financing was the errors discovered. Without the subdivision, securing financing will not be possible. He reiterates that no change will take place, this is merely a change on paper – establishing a boundary-line that everyone though always existed.

Chairman Saveory queries the Board, beginning with Mr. Beauparlant.

Mr. Beauparlant notes for the record that it appears that all of the variances requested results from already long-standing conditions, albeit a zero (0) side-yard setback is rather excessive. He inquires if there are any variance concerns that are not readily apparent, such as off-street parking, etc. Attorney Conley reiterates that all operating conditions will remain unimpeded – operating in the same fashion for some 40-years now. In order to accomplish this, a series of cross easements has been prepared for recording that permits all parking and other site improvements to be used interchangeably.

Mr. Cunha notes that he has a single concern. He inquires if there are any contingency plan to address a situation in which either, or both, businesses cease operating. For example, razing some portion of either building so that there is clear physical separation. Attorney Dylan responds in the negative, noting that that has not been discussed. It is his opinion that the subject entities will be occupying the present facilities for many years to come, and should something ever happen, then whatever modifications are required will be properly addressed at that time.

Mr. Cunha reiterates his concern regarding the actions of the Board in granting so many variances. Once approved, it runs in perpetuity with the property, and things do not remain the same forever.

Change is inevitable. He simply wonders if there is any plan in place to address this situation. Attorney Conley responds that no such plan has been discussed or prepared. The present actions is simply to effectuate proper financing. It must be reemphasized that nothing will change – with or without zoning approval. The only distinction being possible negative impact on present usage.

Mr. Croke notes for the record that given the zero (0) side-yard setback clearance, he is in agreement with Mr. Cunha that it could cause quite a few problems in the future were the uses to cease and each property used for alternate purposes.

Joseph Casali, PE, with office at 300 Post Road, Warwick, RI, is properly sworn in.

Mr. Casali responds to Mr. Croke's concern by noting that they are mimicking what was always presumed to be the dividing boundary line.

Mr. Croke notes that his concern stems from the fact that the proposed boundary line cuts directly through the nursing home, rendering it somewhat of an unclean division. Mr. Casali responds that perhaps it is the fault of the submitted plan, but the proposed boundary line does not interfere with either principal operation. He refers to the second plan submitted, which provides a clearer perspective. The two (2) operations share a common dining room,

and the proposed boundary line cuts through a connecting mezzanine. The present dining room will be fully maintained on proposed designated Parcel No. 1. This also addresses Mr. Cunha's concern. The interrelatedness of the two (2) uses given the commonality of the shared dining room, would render independent usage of either facility rather difficult.

Mr. Croke then notes that if the petition were to be approved, he would condition said approval on the stipulations outlined within the Planning Department staff report. Mr. Casali responds that the Public Work's Director was present at the previous night's Planning hearing, and he was satisfied with their responses. They are prepared to satisfactorily address each, and every, stipulated condition of approval. The one condition that was of utmost importance was evidencing independent utilities. Although it has been confirmed that there are two (2) sewer laterals, they have requested a dye test to confirm each sewer is in fact serving the individual operations.

Mr. Croke inquires if the same holds true for water usage – independent water meters. Mr. Casali responds that the primary concern of the City Engineer was evidencing independent utilities – both sewer and water. Should there presently be a master water meter, than introduction of a deduct meter would be required to evidence separate water usage. The City will continue to invoice them in a similar historical fashion.

Mr. Braga inquires as to why subdivide, rather maintain the historically merged manner? Mr. Casali responds that everyone was actually under the impression that they were already subdivided and operating independently. It was not until recent investigation by bond counsel for financing purposes that it was discovered that it was in fact a singular property. Prior division was never properly recorded. Further evidence of this fact is provided by the presence of a granite boundary marker within inches of the proposed boundary line. This would lead one to logically conclude that the City requested such marker installation during the initial division. Why the subdivision was never properly effectuated, is unclear. Regardless, this goes against all long-standing financing arrangements, because said financing always recognized two (2) separate entities. Present financing is similarly comprised of two (2) independent funding sources.

Mr. Braga notes for the record that it is clear that the Board would prefer a singular property, because the concerns raised would be extinguished, as would the array of variances requested. However, is this possible, given the financing issue just discussed. Attorney Conley responds that it would be greatly problematic, because the individual properties have been encumbered with numerous successive liens. In order to obtain a new bond, there must be sufficient leverage. However said leverage would be impossible to obtain were the operations maintained on an individual parcel.

Mr. Braga reiterates the Board's concerns because the numerous variances do run in perpetuity with the property. Mr. Casali notes that the vast array of variances sought are not new, but pre-existing conditions. Parking within the requisite setbacks, excessive impervious coverage, etc. will remain, whether or not, any dimensional relief is granted. Mr. Braga acknowledges that fact, however the boundary line directly through two (2) existing entities is somewhat problematic. Mr. Casali indicates that he would agree were it not for the fact that there is a shared dining room that binds the operations. It would entail major modifications to realize two (2) separate entities.

Mr. Braga asks the Zoning Officer if the same entity will continue to own both properties? Attorney Conley responds in the affirmative. Mr. Braga inquires if joint ownership would not once again realize merged properties. Zoning Officer responds in the negative. The subject properties were never merged to begin, because they were always a singular parcel, albeit everyone assumed otherwise. The process of subdivision, followed by obtaining the necessary dimensional relief, legally realizes two (2) distinct parcels. Merger, which happens as a matter of zoning law, only occurs when a property owner has not proceeded through the property regulatory process of subdivision and zoning.

Chairman Saveory notes that were the Board to grant the subject relief, even though it is neither present or near future intent, it is

possible to sell off one of the properties to a different entity. This is somewhat disconcerting. At least, the Engineering Department is mandating separation of utilities, so that cannot become a nightmare somewhere down the road. Attorney Conley adds that there are other safeguards that have or will be imposed that also assist in averting such a disconcerting situation – such as cross-easements in regard to off-street parking, loading, etc. Furthermore, as testified to by Mr. Casali, the shared kitchen and dining room renders separation quite difficult. Were a situation to avail itself in the future that required separation, given all of the outlined protective legal and regulatory measures instituted, he cannot fathom a circumstance that would not require further zoning board intervention. Mr. Casali adds that the present land uses do not require as extensive off-street parking, as would a residential use. This would clearly require further zoning review and control. Chairman Saveory acknowledges agreement, however once the use presents itself based on past poorly instituted zoning decisions, it is difficult not to avoid granting further zoning relief. Such a circumstance has already occurred. Chairman Saveory references the former nursing home on Taunton Avenue, which eventually was converted to residential, requiring parking relief because of the more strenuous parking requirements.

Chairman Saveory inquires if the shared off-street parking agreement, requested by the City Solicitor, has already been completed? Attorney Conley indicates that it has.

Chairman Saveory then inquires if there is a pending lawsuit regarding property taxes? Attorney Conley once indicates in the affirmative.

Chairman Saveory then inquires about some request by Planning staff for a list of all waivers. Attorney Conley responds that that is an older request. The list was prepared and presented at the previous night's Planning Board hearing. It was deemed acceptable.

Chairman Saveory then inquires if the applicant is acceptable to all conditions imposed by the Planning Board? Attorney Conley responds in the affirmative.

Chairman Saveory asks a series of questions, trying to understand how the subject entities came to be, and why everyone was under the impression that there were two (2) parcels present, when in fact there is only a singular parcel. Zoning Officer responds that he has invested numerous hours with Counsel to understand how the problem occurred. The subject operations exist pursuant to several zoning decisions issued throughout the 1970s. During the final approval, it does appear that they were discussing individual operations, each necessitating several specific variances. And yet, in the end, a singular decision, quantifying an individual parcel was approved. It is also noteworthy that the subject property is presently comprised of numerous smaller, substandard merged lots. The proposed boundary line perfectly aligns with several of the

prior-recorded boundary lines. The present action is merely to clean-up the situation.

Mr. Cunha reiterates his concern. He then inquires if the Attorney can offer some contingency for separating the two (2) land uses, should it ever happen. Attorney Conley responds that pursuant to the underlying parking agreement and other measures instituted, it would negate such action as a matter-of-right. The boundary line selected was to reflect historical pattern and understanding. Zoning Officer adds that given the low parking threshold associated with present land uses, were modifications pursued in the future to alter the use of either operation, it would most assuredly require the review of the Board, thereby allowing them to decide what modifications, were, or were not, appropriate. Chairman Saveory acknowledges that he concurs with the Zoning Officer's opinion, as evidenced by the former nursing home turned to multi-residential on Taunton Avenue – said operation having to satisfy the Board prior to being converted. Mr. Cunha notes that he is satisfied with that answer.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Prior to rendering a motion, the Zoning Officer reminds the Board that

the submitted aerial plans prepared by the project engineer have not been official accepted yet.

Motion by Mr. Beauparlant to accept the stated plans and render them part of the official record, designated Exhibit 'A'. The motion is Seconded by Mr. Braga, and Unanimously approved.

Chairman Saveory queries the Board for a motion.

Motion by Mr. Beauparlant, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of

this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Beauparlant hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Beauparlant moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Compliance with all twelve (12) conditions of approval documented on the Minor Subdivision approval dated 3 December 2014 – Notice of Decision – 2014 – 8 Minor Subdivision – Prelim. Plan – Filed in the East Providence Land Development and Decision Index Book 7, Page 47.

2. Petitioner(s) obtaining any, and all, necessary permits.

3. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony

provided during the respective hearing.

Chairman Saveory asks Attorney Conley, on behalf of his client, if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Attorney Conley, responds that he fully understands and accepts the conditions just stipulated, on behalf of his client.

The motion is Seconded by Mr. Cunha.

Roll Call Vote:

Mr. Beauparlant - Aye States that he concurs with the sentiment of fellow

Board members regarding the excessiveness of certain deviations and that they do not know what the future may bring. However, he also agrees that many of the deviations are pre-existing and will remain regardless of the outcome, and that present actions were the result of past confusion, some of which was zoning related. He also believes that this will rectify some of that confusion. He also believes that it will not result in any neighborhood impact.

Mr. Cunha - Aye Minor deviations, many of which are pre-existing and will therefore not negatively impact the surrounding neighborhood.

Mr. Croke - Aye He too believes that this is a very reasonable proposal

that will realize each operation being situated on its\ own independent parcel. His only recommendation\ is that it also be conditioned on full compliance with all Fire Departments comments.

Chairman Saveory - Aye Based upon all submitted testimony and evidence he

too has concluded that this is quite reasonable.

He also feels that the Zoning Board has probably been part of the problem, and that this will rectify that situation.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

VIII. NEW BUSINESS

1. Petition No. 6560: Edward Ketz, seeks Dimensional Relief, to permit construction of an addition onto a single-family residence, without complying with several dimensional requirements, as described below, for property located at 23 Primrose Drive, being Map

511, Block 05, Parcel 015.00, and located within a Residential 3 District.

[NOTE: During the subject hearing, the applicant agreed to raze the larger of the two (2) on-site accessory sheds – merely retaining an individual 80 square foot shed situated within the northeast corner of the subject property.]

A. Dimensional Variance, to permit retention of an accessory shed, said shed failing to comply with the requisite accessory setback pursuant to Section 19-144(b) – Three and seven-tenths (3.70) foot variance, resulting in said shed being situated within one and three-tenths (1.30) feet of the northerly (side) property boundary.

B. Dimensional Variance, to permit construction of the referenced addition without complying with the minimum rear-yard setback requirement pursuant to Section 19-145 – Three and seven-tenths (3.70) foot variance, resulting in the referenced addition being situated approximately twenty-one and three-tenths (21.30) feet from the easterly (rear) property boundary.

George Nunes, plan designer, 366 Juniper Street, East Providence, RI, is properly sworn in.

Mr. Nunes informs the Board that he represents the subject petitioner. The petitioner's daughter and family reside at the subject

premises. His daughter has been diagnosed with a debilitating illness and is now already wheel-chair bound. The current residence simply cannot accommodate a wheel-chair, being non-handicap oriented and therefore unmanageable. The required rear-yard setback is 25-feet. In addition, there are two (2) present accessory sheds that are both situated approximately one-foot off of the side-yard. Relief is being sought from the five-foot minimum to maintain said sheds.

Chairman Saveory queries the Board, beginning with Mr. Cunha.

Mr. Cunha inquires about the need for both sheds. Mr. Nunes responds that in fact, subsequent to the submission of the referenced application, the petitioner has already considered removing one of the sheds. Mr. Cunha inquires if a particular shed has been selected?

Mr. Nunes responds that it is the shed that is closest to the front-yard.

Zoning Officer asks if that implies the larger of the two? Mr. Nunes responds in the affirmative. Mr. Cunha notes that that is acceptable, because he wanted the closest to the side-yard removed. He will impose that as a condition of approval. Mr. Nunes states that the second shed could be relocated if the Board so directs. Mr. Cunha understands the objective of maintain as much grass as possible. He is accepting of the present location, his only concern was maintenance of two (2) sheds. If one is to be removed, then he has

no objection. In fact, he has no concern regarding the addition whatsoever, and appreciates the effort to remain within the City of East Providence.

Mr. Croke acknowledges that he too has no objection in regard to the addition. His only concern was regarding the presence of two (2) sheds, and appreciates its removal.

Mr. Braga notes that he fully concurs with Mr. Croke's comments.

Mr. Beauparlant refers to the submitted architectural plans, noting that it indicates the presence of five-bedrooms. He inquires as to the number of people residing in the residence? Mr. Nunes responds that there are five (5) individuals in the residence.

Mr. Beauparlant inquires if there is a second kitchen in the lower (basement) level? Mr. Nunes responds in the negative. Mr. Beauparlant notes that he too is not adverse to the subject proposal, however questioned the need for a sixth bedroom – concerned about the future conversion to a two-unit residence. Mr. Nunes notes that the objective is simply to render it handicap accessible, to accommodate the wheel-chair.

Chairman Saveory inquires if the residence if improved with either a living room and/or dining room? Mr. Nunes apologizes noting that the plans are in error. Inadvertently rooms were labeled as

bedrooms, when they are in fact used for other purposes. He proceeds to describe the layout. Chairman Saveory notes that he will correct on his own print, because it will be the copy that is signed and maintained in the files.

Chairman Saveory suggests adding a ramp to the deck, thereby permitting freedom and access to the entire rear-yard, and not merely to the deck itself. Mr. Nunes responds that that is a good suggestion.

Mr. Croke inquires if the lower (basement) level bedroom will be removed? Mr. Nunes responds in the affirmative, noting that once the other bedroom is established, the basement bedroom will be extinguished.

Chairman Saveory asks for clarification on the shed to be removed. Mr. Braga notes that his understanding is that it will be the larger of the two (2), approximately 100 square feet in size. Mr. Nunes responds in the affirmative.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony

presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Cunha hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional

variances are not granted shall amount to more than a mere inconvenience.

Mr. Cunha moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

- 1. Removal of the larger, approximately 100 square foot shed.**
- 2. Removal of the lower-level (basement) bedroom.**
- 3. Petitioner(s) obtaining any, and all, necessary permits.**
- 4. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.**

Chairman Saveory asks Mr. Nunes, on behalf of the petitioner, if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Nunes, responds that he fully understands and accepts the conditions just stipulated, on behalf of the petitioner.

The motion is Seconded by both Mr. Braga and Mr. Croke.

Roll Call Vote:

Mr. Cunha - Aye They need to render the property handicap accessible,
which results in the presence of hardship. Besides,
the removal of the second dimensionally non-compliant
shed and basement bedroom results in an overall
improvement.

Mr. Croke - Aye Present interior configuration results in hardship for
the
petitioner's daughter. The relief sought is quite minor.

Mr. Braga - Aye Believes that the relief sought is the least relief
necessary.

the addition will not negatively alter the surrounding
character, and failure to approve would result in
hardship amounting to more than a mere inconvenience
given the fact that they would probably have to relocate.

Mr. Beauparlant - Aye The relief does appear minimal and removal of
the
shed actually improves overall dimensional criteria. He
too believes that hardship would be suffered if not
approved. He likewise believes that there will be no
neighborhood impact.

Chairman Saveory - Aye Concurs with fellow Board members.
Hardship will most

assuredly be suffered if not approved because the petitioner's daughter cannot be accommodated under current living conditions.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

2. Petition No. 6561: Kathy Davenport, seeks Dimensional Relief, to permit construction of an addition onto a single-family residence, without complying with the minimum side-yard setback requirement, for property located at 6 Drowne Parkway, being Map 504, Block 15, Parcel 004.00, and located within a Residential 2 District.

Board continued the referenced petition to 7 January 2015, earlier in the hearing.

3. Petition No. 6562: Stephen and Janet Fitzgerald, seek Dimensional Relief, to permit construction of a front vestibule addition onto a single-family residence, without complying with several dimensional requirements, as described below, for property located at 41 Bent Road, being Map 402, Block 18, Parcel 002.00, and located within a Residential 3 District.

A. Dimensional Variance, to permit the referenced improvement

without complying with the requisite front-yard setback pursuant to Section 19-145 – Five and two-tenths (5.20) foot variance, resulting in the stated improvement being situated within approximately fourteen and eight-tenths (14.80) feet of the northwesterly (front) property boundary.

B. Dimensional Variance, to permit the referenced improvement, resulting in exceeding the maximum building coverage requirement pursuant to Section 19-145 – One and six-tenths (1.60) percent variance, resulting in the subject property being covered approximately twenty-six and six-tenths (26.60) percent with total building coverage.

Stephen Fitzgerald, subject petitioner, 41 Bent Road, East Providence, RI, is properly sworn in.

Mr. Fitzgerald informs the Board that he presently has a problem with his front door. It barely clears the stairway when opening, and is therefore hardly ever used.

Chairman Saveory queries the Board, beginning with Mr. Beauparlant.

Mr. Beauparlant notes for the record that the two (2) variances sought are quite minor, and believes that it will in fact enhance, and not detract from the neighborhood. He therefore has no personal

objection.

Mr. Cunha notes for the record that he has no questions or comments at this time.

Mr. Croke notes for the record that he too finds it a reasonable proposal that will positively contribute to the neighborhood.

Mr. Braga inquires as to the dimensions of the proposed addition? Mr. Fitzgerald responds that it is approximately 6-feet by 8-feet, or a total of 48 square feet.

Mr. Braga notes that he too has no critical objection, however his only concern is that this will be the only residence that has such an improvement along the block in question. It will be the only protrusion along that residential block, and is therefore struggling with that inconsistency. Mr. Fitzgerald informs the Board that the unique element is that he is the only residence with such a problem.

Mr. Braga inquires if only an exterior door is being introduced? Mr. Fitzgerald responds in the affirmative. Mr. Braga inquires then as to the need for the full eight-foot addition? Mr. Fitzgerald responds that considering the 3-foot door, this only leaves a few feet between the open door and stairway.

Mr. Braga notes that he wishes to hear from any neighbor that mat be

present, because to some degree it will alter the character of the block.

Chairman Saveory notes that he too observed the change, but believes that it will contribute by being different.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Beauparlant, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variances will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Beauparlant hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variances, that the hardship that will be suffered by the owner of the subject property if the dimensional variances are not granted shall amount to more than a mere inconvenience.

Mr. Beauparlant moves that the dimensional variances be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Mr. Fitzgerald, if he accepts the conditions of approval just stipulated, understanding that strict compliance means

that any deviation will necessitate revisiting the Zoning Board of Review; said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Fitzgerald, responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Cunha.

Roll Call Vote:

Mr. Beauparlant - Aye The proposed improvement will have no negative impact on the neighborhood. The relief is very, very minor, and does result from the presence of hardship, namely the present egress configuration.

Mr. Cunha - Aye

Mr. Croke - Aye Although, as Mr. Braga has stated, this will be the only Residence with such an improvement, he personally Believes that it will contribute, and not detract, from the Overall neighborhood. He too believes that hardship stems from the present configuration of the entrance.

Mr. Braga - Aye The addition is quite nominal. His only concern was in regard to the immediate neighbors, and if no one is present to share the same concern, then it must not be an issue.

Chairman Saveory - Aye Although, it is a unique feature, the size is quite minimal

And should therefore not have any neighborhood impact.

Dimensional variances unanimously granted, subject to the aforementioned condition(s).

4. Petition No. 6563: Maryann Vigliani, seeks Dimensional Relief, to permit construction of an addition onto a single-family residence, without complying with several dimensional requirements, for property located at 900 Veterans Memorial Parkway, being Map 309, Block 03, Parcel 016.00, and located within a Residential 3 District.

Zoning Officer informs the Board that there is a potential notice issue with the subject petition. Counsel is present to address that matter first, prior to proceeding with the proposal.

Attorney Dean Robinson, with law offices at 670 Willett Avenue, East Providence, RI, informs the Board that he represents the subject petitioner.

Attorney Robinson informs the Board that his client is seeking a side-yard setback variance to permit an addition onto her single-family residence. To assist in the presentation, is Mr. Richard Lipsitz of Waterman Engineering.

Attorney Robinson notes that he would first like to address the notice issue referenced by the zoning officer. Inadvertently, several of the property owners were not properly noticed, and an attempt was made by personally contacting those parties and having them sign a notarized letter acknowledging their awareness of the hearing.

Motion by Mr. Croke to accept the submitted notarized letters, designated Exhibit 'A', and render them part of the official record. The motion is Seconded by Mr. Beauparlant, and Unanimously approved

Mr. Braga notes that it is still unclear as to whether or not all parties requiring notice, were in fact properly noticed. Attorney Robinson responds that all parties are now properly noticed.

Assistant City Solicitor Dias states for clarification purposes that those parties that did not initially receive notice were either formally contacted by Counsel and signed a notarized letter, or if they were unable to be reached, the letter was posted at their address. Regardless, notice is a responsibility of the petitioner, and therefore, even if still defective, onus is on the petitioner. Some party could still have the rights to appeal in the future for failing to be properly noticed. Attorney Robinson responds that he agrees and accepts that responsibility on behalf of the petitioner.

Zoning Officer proceeds to read into the record an email from the

direct abutting neighbor, objecting to the subject proposal.

Motion by Mr. Croke to accept the email, designated Exhibit 'B', and render part of the official record. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Attorney Robinson proceeds to object to the receipt of the referenced email, until learning that the party in question is present in the audience.

Richard Lipsitz, PLS, Waterman Engineering, 46 Sutton Avenue, East Providence, RI, is properly sworn in.

Mr. Lipsitz proceeds to describe the subject property, noting that everyone was under the impression that the side boundary line was in accord with the row of evergreen trees, but that is not the case. The boundary line is actually shy of said trees. The property owner is attempting to bring all living conditions to the first-floor, due to her advancing years. In addition to the setback requirement, coverage relief was also requested, however that is no longer required – there will be full compliance with both building and impervious lot coverage. The subject petitioner did not build the original home. Whomever had it built, curiously angled it, instead of aligning with the right-of-way, and this now contributes to the setback difficulty encountered.

Chairman Saveory queries the Board, beginning with Mr. Croke.

Mr. Croke inquires about the present chimney, and whether the addition will be constructed surrounding it? Mr. Lipsitz acknowledges that he is not the architect, however it is his understanding that that is the intended goal.

Mr. Croke notes for the record that after conducting a personal site inspection, it appears that there is more than adequate area to the rear to construct without impairing any setback. Mr. Lipsitz states that it is his understanding from the architect that this also results from the present interior layout. Chairman Saveory notes that without a floor plan, it is difficult for the Board to conclude whether layout does, or does not, contribute to the petitioner's dilemma.

Mr. Croke notes that he first wishes to hear from the neighbor's before deciding appropriateness.

Mr. Braga notes that he concurs with Mr. Croke's concerns. In addition, the second-floor decking is quite disconcerting, because it will be quite close to the neighbors, impeding their privacy. He also does not fully believe that the proposal realizes the least relief necessary. Mr. Lipsitz responds that he fully understands. The confusion stems from the placement of the trees, leading the petitioner to believe that that was the property boundary. She probably would not have to gone such lengths, if she had been aware

of the proximity to the side boundary line. Mr. Braga notes that that is simply what they must deal with. He too wishes to hear from the neighbors.

Mr. Beauparlant notes that the placement of the privacy buffer does not contribute to one's hardship. Mr. Lipsitz responds that hardship stems from the placement of the residence at such an odd angle in relationship to the lot – resulting in a large portion of the present residence being already non-conforming from a setback perspective. Mr. Beauparlant notes that it also realizes quite a bit of buildable area to the rear of the residence. Mr. Lipsitz notes that the present interior configuration does not lend itself to locating the improvement to the rear.

Mr. Beauparlant notes for the record that this is a rather historically significant area, with lots that are typically larger in area than your average parcel. He simply cannot fathom what the hardship could be. He does believe that it will have a negative impact. Finally, he is entirely unsupportive of the upper-floor deck, given the proximity to the neighbor.

Mr. Cunha notes that he does have some understanding as for the need for the lower-level bedroom, if the argument is due to advancing years and desire to avert going upstairs. However, this is contradicted by the addition of the second-floor decking. She is getting too old to access the upper-floor bedrooms, but can manage to access the deck. The argument is simply too hard to swallow.

Attorney Robinson responds that he believes the petitioner would be willing to forego that portion of the project.

Mr. Cunha adds that he is in agreement with other Board members regarding the availability of other opportunities to meet her needs, namely relocating the addition to the rear.

Chairman Saveory notes that he is well aware of the pre-existing nature of the dwelling. However, placement was at the discretion of the then property owner, albeit oddly angled.

Chairman Saveory notes that the proposed bedroom is upwards of 600 square feet, rather sizeable. He would have preferred to have floor plans, in order to comprehend the internal flow. Regardless, he is in agreement that this is simply too close to the property boundary, and therefore entirely out of character. He would recommend reconfiguring the proposal, because in its present form he does not give it great odds.

Mr. Braga notes that relocating the addition more-so towards the rear, would realize a far reduced setback deviation.

Attorney Robinson requests that they first hear from the neighbors, and then he would formally seek a continuance.

Mr. Cunha notes that he is inclined to grant them their continuance,

however prior to returning he would like to see the submission of floor plans.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition.

Paul Bechard, 4 Mountain Avenue, East Providence, RI, requests permission to speak against the subject petition. Mr. Bechard is properly sworn in.

Mr. Bechard informs the Board that the residence was constructed approximately 1943 / 1944. The present vegetation was installed some two-years ago. They have resided at the subject residence for some 12-years. The positives are size of lots and distance from other residences. The drawbacks is noise from the Vets Parkway. The petitioner in question is very pleasant and they do not have any personal issues. However, their concern stems from the subject proposal. An addition that is a mere two-feet from the property boundary with second floor decking, will impede their privacy. It will most assuredly impact the neighborhood character.

Chairman Saveory reminds Mr. Bechard that if continued, there will be no further notice. Zoning Officer responds that he has been conferring with the Assistant City Solicitor, and they would

recommend given the documented notification errors, that if continued it should be renoticed. Besides, the submission of revised plans should necessitating re-noticing. Mr. Braga notes that he agrees with that determination.

Chairman Saveory then inquires if there is anyone else present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Attorney Robinson requests a two-month continuance to permit adequate time to submit revisions.

Motion by Mr. Croke to continue the petition to the 4 February 2015, regularly scheduled meeting of the Zoning Board of Review. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

5A. Petition No. 6564: Sherman and Salome Price, seek a Special Use Permit, to permit construction of several additions onto their two-unit residence - otherwise defined as expansion of a non-conforming land use - pursuant to Section 19-98 'Schedule of Use Regulations' and 19-413(a) Alteration of Non-Conforming Use', for property located at 147 – 149 Riverside Drive, being Map 414, Block 08, Parcel 005.00, and located within a Residential 3 District.

Susan Levitar, subject petitioner, 147 Riverside Drive, East Providence, RI, is properly sworn in.

Ms. Levitar informs the Board that she is seeking permission to expand their two-unit residence by a very small amount. However, given that it is a two-unit residence and non-conforming, they require the permission of the Zoning Board of Review. The residences is presently quite uniquely configured, being shaped in a u-configuration. The first addition will be centered within the middle, thereby somewhat squaring it off – will not be visible from any vantage point, but will provide much needed living space for the second unit. The stated unit will be used by her parents. However, current living conditions are so constrained as to prohibit usage of walkers and canes. They are simply filling in the void to realize a more handicapped accessible environment. The second, much smaller addition, is alongside the residence to permit direct interior access to said unit. Presently, access is by walking around the exterior of the garage. They did consider a second alternative, namely access from within the garage. However, a supporting steel beam limits head-room to six-feet, which simply does not work and fails to comply with the building code. The side addition is quite minimal and encroaches into the side-yard setback by a very minor amount – mere two and one-half foot intrusion.

Chairman Saveory queries the Board, beginning with Mr. Cunha.

Mr. Cunha notes for the record that initially he understood the proposal to be much greater than what is actually being proposed –

he now fully understands the minimal nature of the subject proposal inclusive of the side-yard setback deviation. Ms. Levitar responds that the living area expansion is a mere 260 square feet and the side entrance addition a mere 70 or so square feet.

Mr. Cunha inquires if the improvements are solely related to rendering the second unit livable for her parent's benefit? Ms. Levitar responds in the affirmative.

Mr. Cunha notes for the record that unless he hears differently from the neighbors, he has no personal objections. Ms. Levitar notes that she spoke with the direct neighbor, and she is quite ecstatic.

Mr. Croke notes for the record that he too believes it is quite minimal and appropriate.

Mr. Braga notes that he too concurs with his fellow Board members. At first, he was unclear as to the need for the side addition, but that has been made clear. Besides, the relief sought is quite minor. He therefore has no personal objections or concerns.

Mr. Beauparlant notes that he too is in full agreement with the Board. The dimensional relief is very minor and the need for the special use permit results from a small addition that is hardly visible to anyone, other than the fact that it expands the non-conforming two-unit residence.

Chairman Saveory notes that infilling the center actually renders it more-so architecturally appealing. He personally believes this is an improvement to both property and neighborhood.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

- 1. That the use is compatible with neighboring land uses.**
- 2. The use does not create a nuisance in the neighborhood.**
- 3. That the use does not hinder the future development of the City.**
- 4. That the use conforms to all applicable sections of the special use requested.**
- 5. That the use is in conformance with the purpose and intent of the East Providence Comprehensive Plan and applicable standards of**

this Chapter.

Mr. Cunha moves that the special use permit be Granted subject to the petitioner fulfilling the

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Ms. Levitar if she accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Ms. Levitar responds that she fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Mr. Cunha - Aye Reasons stated earlier.

Mr. Croke - Aye Minor addition.

Mr. Braga - Aye

Mr. Beauparlant - Aye The two-unit residence has been well

established within

The subject neighborhood without any negative impact, and therefore, expansion in the manner so proposed should similarly not have any impact. In fact, he personally believes that this will contribute in a positive manner. The relief sought is quite minor and will neither impair the Ordinance or Comprehensive Plan, and will not deter future development.

Chairman Saveory - Aye It is a very minor deviation, that will realize a positive impact to both property and neighborhood alike.

Special use permit unanimously granted, subject to the aforementioned condition(s).

5B. Petition No. 6565: Sherman and Salome Price, seek Dimensional Relief, to permit construction of several additions onto their two-unit residence, without complying with the minimum side-yard setback requirement pursuant to Section 19-145 'Two and seven-tenths (2.70) foot variance', stated improvements to be situated approximately twelve and three-tenths (12.30) feet off of the easterly (side) property boundary, for property located at 147 – 149 Riverside Drive, being Map 414, Block 08, Parcel 005.00, and located within a Residential 3 District.

Susan Levitar, subject petitioner, 147 Riverside Drive, East

Providence, RI, is properly sworn in.

[NOTE: For specific testimony, refer above under Petition No. 6564.]

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Cunha, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variance will not alter the general

character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Cunha hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Cunha moves that the dimensional variance be Granted subject to the petitioner fulfilling the following conditions:

1. Petitioner(s) obtaining any, and all, necessary permits.

2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Ms. Levitar if she accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of

Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Ms. Levitar responds that she fully understands and accepts the conditions just stipulated.

The motion is Seconded by both Mr. Beauparlant and Mr. Croke.

Roll Call Vote:

Mr. Cunha - Aye Reasons stated earlier.

Mr. Croke - Aye Minor addition.

Mr. Braga - Aye Will not alter the surrounding character, and the relief is

not only very minor but the least relief necessary. He does not believe that it results from any personal prior actions and will result in hardship amounting to more than a mere inconvenience if denied.

Mr. Beauparlant - Aye Concurs with Mr. Braga.

Chairman Saveory - Aye Concurs with Mr. Braga.

Dimensional variance unanimously granted, subject to the aforementioned condition(s).

6. Petition No. 6566: DSM Coating Resins, seek Dimensional Relief, to permit introduction of an excessive number of monument signs pursuant to Section 19-443(e) 'Table 3(1) – Two (2) monument sign variance, resulting in the subject property being improved with a total

of three (3) monument signs, for property located at 199 Amaral Street, being Map 508, Block 02, Parcel 001.00, and located within an Industrial 2 District.

Jim Kennedy, Maintenance Manager, DSM Coating Resins, 199 Amaral Street, East Providence, RI, is properly sworn in.

Mr. Kennedy informs the Board that they are seeking permission to install three (3) monument signs along Amaral Street. In addition, a wall-mounted sign will be installed. The monument signs are in fact street markers, approximately five (5) to six (6) feet in overall height. The first will simply read the name of the company. Further up at the gated entrance will be a second directional sign, providing delivery information and other necessary customer information. Finally, a third sign directing customers to the front entrance will be placed along the walkway. They were entirely unaware of the limitations on signage.

Chairman Saveory queries the Board, beginning with Mr. Croke.

Mr. Croke inquires if there is any signage present? Mr. Kennedy responds in the affirmative, noting that there is a rather large monument sign in place. However, the company merged and has since changed its branding. It is an international branding change, and therefore the existing sign will be replaced with the three (3) smaller monument signs. The existing sign was approximately

six-feet by eight-feet, whereas the proposed signs are approximately five-feet by two and one-half feet.

Mr. Croke then inquires about the presence of a secondary, smaller pylon sign. Mr. Kennedy responds that that is also present and will be retained.

Mr. Croke notes that the excessive signage will have no impact on the neighborhood given its presence at the very end of Amaral Street, and is well-shielded from any neighbors.

Mr. Braga inquires as to whether the small present sign is in fact one (1) of the three (3) signs proposed? Mr. Kennedy responds in the affirmative, noting that it is the directional sign described earlier in his testimony.

Mr. Braga inquires if the proposed signs mirror the sign to be retained? Mr. Kennedy responds that the wall-mounted sign is clearly different. However, the two (2) additional monument signs will have similar dimensions and colored appearance.

Mr. Braga inquires about the dimensions of the wall-mounted sign? Mr. Kennedy responds that the subject sign is simply raised letters on a plaque.

Mr. Beauparlant asks for clarification on the relief sought, because it

indicates one (1) sign existing, and two (2) more proposed, whereas there is a total of four (4) signs. Zoning Officer explains that the wall-mounted sign is not part of the zoning petition because they have an abundance of square footage allotted the subject property. The only issue is that the subject property is limited to either a singular monument or pylon sign. Therefore, the deviation results from increasing to three (3) monument signs, or a two (2) monument sign variance.

Mr. Cunha inquires if the overall wall-mounted sign has approximate dimensions of nine-feet in length, because the plans are unclear. Mr. Kennedy responds in the affirmative.

Chairman Saveory acknowledges that he too has no concerns.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variance be Granted subject to

the petitioner fulfilling the following conditions:

- 1. Petitioner(s) obtaining any, and all, necessary permits.**
- 2. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.**

Chairman Saveory asks Mr. Kennedy if he accepts the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Mr. Kennedy responds that he fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Beauparlant.

Roll Call Vote:

Mr. Croke - Aye Reasonable petition.

Mr. Braga - Aye Quite reasonable based upon their location.

Mr. Beauparlant - Aye He concurs that they are reasonable given their presence

at the end of Amaral Street. It will not impact the general character of the area and the relief is rather minimal.

Mr. Cunha - Aye Concurs that the relief sought is quite reasonable.

Chairman Saveory - Aye Likewise concurs that it is a reasonable proposal.

Dimensional variance unanimously granted, subject to the aforementioned condition(s).

7. Petition No. 6567: AAA Southern New England, seeks Dimensional Relief, to permit introduction of a digital pylon sign, without complying with several dimensional requirements as described below, for property located at 10 River Road, being Map 710, Block 03, Parcel 001.00, and located within an Industrial 2 District.

[NOTE: During the subject hearing, extensive testimony was provided regarding the digital nature of the proposed pylon signage. It was concluded, that although the referenced sign was not a true electronic message center with continuous flow of information / data / graphics, the periodic change in information displayed could be a distraction and therefore was limited to not exceed twelve (12) changes per hour – or no more than one change every five (5) minutes.]

A. Dimensional Variance, to permit installation of the referenced pylon sign, resulting in exceeding the maximum signage area per

side pursuant to Section 19-443 'Table 3' – Fourteen (14) square foot dimensional variance per side, stated pylon sign to be approximately sixty-four (64) square feet in total face area per respective side.

B. Dimensional Variance, to permit installation of the referenced pylon sign, resulting in exceeding the maximum signage area permitted per pylon sign pursuant to Section 19-443 'Table 3' – Twenty-eight (28) square foot dimensional variance, stated pylon sign to be approximately one hundred and twenty-eight (128) square feet in total signage area (inclusive of both sides).

Attorney Christine Engustian, with law offices at 1 Grove Avenue, East Providence, RI, informs the Board that she represents the subject petitioner.

Attorney Engustian commences by describing the subject property. The petitioner intends on both improving the appearance of the facility as well as surrounding property. The overall goal is to locate a regional AAA office with accessory uses. This reuse of the property will require a formal review under the Development Plan Review regulations. However, prior to proceeding through said review, the petitioner wants assurance that they will acquire needed signage. She proceeds to describe the signage pursued, and the resulting dimensional deviations. She explains that she has two (2) witnesses.

Mark Shaw, President of AAA, 6 Brick Pond Drive, Barrington, RI, is

properly sworn in.

Mr. Shaw provides the following information in response to questions from legal counsel.

Mr. Shaw informs the Board that he has been employed at AAA for approximately 34-years, 14-years of which in the role of President of AAA. He is very familiar with the subject property, having been in negotiation with the Maylor Family for quite some time, and now in a purchase and sales agreement. The regional headquarters is located within the City of Providence, however they have outgrown the site. The goal is to relocate several of the operations from providence to the subject property, and in addition open a typical customer office. However, given the unique aspects of the subject property – being quite large and the facility situated some distance from the roadway – a larger than normal sign is required. Plans have been submitted illustrating their proposal. The sign is a V-shaped pylon sign to assist in attracting all vehicular travel along the several roadway network. This is a very typical sign within their network of 51 locations. He proceeds to explain that they have prepared a package illustrating several similar signs located throughout nearby communities – documenting that this is very typical of their signage program.

Attorney Engustian requests that the sign package in question be accepted into the record.

Motion by Mr. Croke to accept the submitted signage package, designated Applicant's Exhibit 'No. 1', and render it a full exhibit. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Mr. Shaw continues by explaining that the subject sign is in fact comprised of two (2) distinct parts. The upper portion is typical of the operation's logo. The lower portion, being the digital portion, provides both the general public and AAA membership, specifically, information on their products. The digital portion will be stationary, meaning that it will be non-moving. The square footage is 64 square feet per sign, whereas 50 square feet is the maximum. The reason for the excessive signage is to ensure proper visibility. The property is quite large and the setback, inclusive of the greater than normal right-of-way, requires significantly greater signage. Actually, the unusual placement of the sign, really requires upwards of 100 square feet per sign, however he fully understands that he needs to mitigate the degree of relief being pursued. In concluding need with the professional sign company engaged, this was the least size deemed appropriate. It results from both distance to and speed of drivers along the surrounding roadway network. The relief sought does not result from primarily a desire to realize financial gain, but to serve their membership of the broad spectrum of available products, in particular the products offered at the subject location. This is without a doubt the least relief necessary, and in fact purchase of the property is incumbent on receiving the requested variance, otherwise they cannot operate from the subject premises.

Joseph Lombardo, AICP, 11 Gran Cera Drive, Hope Valley, RI, is properly sworn in.

Mr. Lombardo proceeds to describe his educational and professional background, pursuant to questions from legal counsel. He informs the Board that he has appeared before the local zoning board, including just recently on behalf of several developments, and was recognized as an expert in land use planning. He proceeds to distribute his resume to the attention of the Board.

Attorney Engustian requests that Mr. Lombardo's resume be accepted into the record.

Motion by Mr. Croke to accept Mr. Lombardo's resume, designated Applicant's Exhibit 'No. 2', and render it a full exhibit. The motion is Seconded by Mr. Braga, and Unanimously approved.

Attorney Engustian then requests that Mr. Lombardo be qualified as an expert in the field of land use planning.

Motion by Mr. Croke to qualify Mr. Lombardo as an expert in the field of land use planning. The motion is Seconded by Mr. Beauparlant, and Unanimously approved.

Mr. Lombardo provides the following information in response to

questions from legal counsel.

Mr. Lombardo explains that he is quite familiar with the subject property, having visited it on several occasions. Furthermore, he was the consulting planner to the Town of Barrington several years back, and quite often stopped at the Mobil Station directly across the street.

The property is zoned Industrial 2 District. He conducted a thorough review of both the City's Comprehensive Plan and Zoning Ordinances, specifically regarding the requisite burdens for the granting of dimensional relief. He has evaluated the standards and provided an individual opinion in regard to the respective standards. The relief sought results directly from the property regarding the distance to travel lanes, which are even further distance than the property boundaries. This results from the wider than normal right-of-way. In addition, is the speed of travel, as already referenced by the Board, as being quite a bit more than the posted speed limit. The hardship clearly results from the unique shape and size of the parcel, magnified by the fact that the unusually larger than normal right-of-way prohibits any signage from being placed up on top of the surrounding road network. A good analogy is the immediate Mobil sign, which is able to be placed right on top of the roadway. He is not aware of any prior action of the present applicant that would result in self-imposed hardship. This applicant is in the process of procuring the property, and yet has to deal with the outlined unique aspects of said property. Introduction of the subject sign will in no way impair the Ordinance, Comprehensive Plan, or surrounding general

character. This can be evidenced by the mixed character of the Trail, which is both improved with vast large businesses and associated signage. The relief sought is the least relief, because as already testified to by the applicant, even greater signage would have been preferred given the speed limits, roadway design, and traffic signals. A split-moment decision needs to be made, less you miss the operation altogether. This is clearly the smallest signage to assure business recognition and done so in the safest manner possible. The hardship is clearly beyond a mere inconvenience – this is an argument of practicality. Without the requisite relief, the business will suffer because it will be unable to attract its membership or inform them of their products. It is his professional opinion that the Board can consider granting the dimensional relief sought, because it does satisfy all of the requisite dimensional burdens.

Attorney Engustian concludes her presentation by informing the Board that based upon the submitted exhibits and presented testimony, it is her legal opinion that they has satisfactorily addressed all of the legal requirements.

Chairman Saveory queries the Board, beginning with Mr. Croke.

Mr. Croke notes for the record that he does not have any problem with either of the stationary signs, or the digital portion fronting River Road. He does have a problem with the digital sign fronting the Trail. He personally believes it will be a distraction given the unsafe manner

in which individuals drive along the Trail. Attorney Engustian responds that the digital board will only display static signs – no continuous movement. Mr. Croke notes that there will be some change in the message, regardless of the frequency, and when speeding it makes it that more dangerous. Attorney Engustian argues that that would be true of any sign, and the subject sign is as stationary as anyone of the multitude of signs lining the Trail. She would understand the argument, if it were continuously changing or flashing.

Mr. Shaw refers to the digital sign located at their headquarters in Providence, and it is quite visible from 95-North or 95-South. That particular sign is some 60-feet in height. His company is truly considerate of any safety issue, and that is what they base their reputation on. When they first considered this property they approached the Planning Department and were asked about another curb-cut on the Trail. They would have gladly made such a request, but were most concerned about the safety implication associated with such a proposal. They truly sacrifice in the name of safety. Their primary goal is to serve their membership and in so doing they must be able to continuously update them on their products. They simply cannot operate without a digital sign, regardless of the frequency of the message change. They would never put forth any proposal that had the potential for being dangerous.

Mr. Braga inquires if the overall height is 20-feet? Mr. Shaw responds

in the affirmative.

Mr. Braga notes that he has heard the sign called both a digital sign, and yet non-moving. He asks for an explanation. Mr. Shaw responds that it is not a continuously changing sign. Mr. Braga notes that there are changes anticipated, and therefore inquires as to the frequency of the changes. Mr. Shaw notes that the changes will be infrequent, and therefore the likelihood is that a driver will not experience more than one message. However, were they driving at a slower rate of speed, or stopped at a traffic light, then they might experience a change in advertising. Mr. Braga notes that he personally would be more comfortable with a fixed rate of message changes, so that they are satisfied from a safety perspective. Perhaps, even stipulate to the rate of change.

Mr. Braga then inquires as to the variety of land uses to be offered at the subject premises? Mr. Shaw responds that the subject property is present quite unattractive. Besides the usual beatification improvements, they will be relocating a number of their operations from the Providence office. They will be providing various forms of educational instruction, as well as storage for a number of their emergency road service vehicles. Also, repairing solely of their service vehicles.

Mr. Braga inquires if there will be any future need for additional zoning relief. Attorney Engustian responds that should they be successful tonight, they will then proceed onto Development Plan

Review before the Planning Department. They do not anticipate the need for any use relief, as they believe all of the proposed uses are expressly permitted. They are most confident that there will be no further dimensional deviations.

Mr. Braga asks the applicant if they are prepared to offer a reasonable schedule for changing the messages. Mr. Shaw responds that the City of Providence had a similar concern – and does not recall if they are able to change once a minute or every two-minutes. There is no such restriction on any of their other signs. He would deem once every two-minutes quite reasonable. Mr. Braga notes that that may still be somewhat excessive, however he will await the opinion of the remaining Board members.

Mr. Beauparlant inquires as to the permissibility of the referenced digital sign in light of the prohibitive nature within the signage regulations. The applicant is clearly not pursuing a use variance. Zoning Officer first explains that there was a legal ruling several years back that the signage regulations were meant to solely exclude continuously flowing messages, and not those that changed on an irregular basis. Such signage was thus allowed to be permitted, provided they abided by a schedule that limited signage changes. This however has recently been deemed an incorrect interpretation and property owners were abusing their own self-imposed restrictions. The Zoning Officer notes that this resulted in his office imposing a moratorium on all such signage until properly addressed

by the Council. The subject sign was included in that earlier determination. Furthermore, although his office has no right of transferring grand-fathered rights, AAA did have such rights at their location on Warren Avenue. They freely agreed to extinguish their 'true EMC' sign on Warren Avenue, if the City would be supportive in relocating the sign to the referenced location. The extinguished sign was continuously flowing and distracting to both drivers as well as overall neighborhood appearance. They could have easily left it in place, thereby rendering the commercialized nature of the property that more valuable. They not only agreed to extinguish the sign, but solely propose a digital sign at their new location – one that was not continuously flowing. Attorney Engustian also adds that although there is a prohibition section, there is no actual definition of an EMC versus a digital sign. It was everyone's then conclusion that a true EMC is not synonymous with a digital sign, and therefore there was no need for a use variance. Zoning Officer acknowledges that that was everyone's interpretation, however due to the proliferation and abuse of such signage no more will be issued until such time that the Council addresses this issue. Mr. Shaw also notes that although there was no official agreement with the City regarding transferring of signage, Ms. Boyle did inspect their other premises and agreed that the digital sign was not distracting.

Mr. Beauparlant notes for the record that all they are presently reviewing is the dimensional component, namely excessive size, and he has no personal objection.

Mr. Cunha notes for the record that his concern arises more from the inconsistency, or interpretation, of the regulations. However, the City desires to interpret, either they will be permitted or outright prohibited. It is blatantly unfair for one party to be treated differently from other property owners. Also, he simply does not agree that there is a difference between digital signage and EMC signage. Whether it changes every few seconds or every few minutes, it is moving and not stationary. Zoning Officer responds by acknowledging that there was a prior poor interpretation of the Ordinance, and that is something he is presently dealing with. His only comment about imposing a moratorium is due to the abuse in signage changes. Everyone agrees to change it infrequently, but they all abuse the number of notarized changes. Regardless, the subject petitioner does fall under the exception rule, other than excessive size, and he would simply ask this Board not to take the digital component into such consideration – other than for safety purposes – when deliberating the merits of the size requested.

Mr. Cunha notes that he agrees with the overall size due to the rather excessive setback.

Mr. Braga inquires about the permissibility of the signage? Attorney Engustian responds in agreement. Zoning Officer notes that if the size were not excessive, he would have issued them a building permit outright.

Mr. Braga inquires then if they are not in the position to impose reasonable conditions if they deem the frequency of change unsafe. Zoning Officer responds that they do have that right. It is this very issue that has resulted in requesting a meeting with the Law Department and hopefully with the City Council for elaboration. Was the intent to outright prohibit all changes, or simply continuous movement. Also, what constitutes change – meaning what is an appropriate frequency in message change?

Mr. Braga notes for the record that if the Board imposes a reasonable change, perhaps you will see one change, if even that. He does not believe that this is a distraction. Mr. Cunha agrees with that statement. His concern arises from the fact that should this be approved, other businesses will want the same thing. This is wrong. Either they are all permitted, or prohibited. Zoning Officer notes that any property owner can seek the permission of the Board, and that is on a case-by-case basis. A true EMC is prohibited and requires that approval of the Board in the form of a Use Variance.

Conversation ensues between the Board members and legal counsel for the applicant about the distinction between digital signs and EMCs, and what constitutes ‘continuous movement’, as well as what is an appropriate message change schedule.

Mr. Croke suggests a 15-minutes interval between message changes,

simply to commence discussion and alleviate any potential safety hazard along Wampanoag Trail. Attorney Engustian agrees that some limitation is in order, however there has to be some scientific basis for the imposed limitation. Mr. Croke contends that it be tied to frequency of the accident rate – an increase in accidents or increase in some other traffic safety concern. Zoning Officer agrees that some mutually agreed upon limitation is preferable, because there will never be any means of evidencing that the so-called traffic safety concern is directly tied to the introduction of the digital sign.

Chairman Saveory inquires if there is anyone present who would like to speak in favor of the subject petition. Hearing and seeing none, Chairman Saveory inquires if there is anyone present who would like to speak against the subject petition. Hearing and seeing none, Chairman Saveory queries the Board for a motion.

Motion by Mr. Croke, based on all the evidence and testimony presented to the Zoning Board of Review and the personal knowledge of the members of the Board of the land and area of the City of East Providence, the Zoning Board hereby finds:

1. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area, and not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in RIGL 45-24-30(16).

2. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.

3. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this chapter or the city's comprehensive plan upon which this chapter is based.

4. That the relief to be granted is the least relief necessary.

Mr. Croke hereby further finds pursuant to Section 19-45(b) of the City of East Providence Zoning Ordinance:

5. In granting the dimensional variance, that the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Mr. Croke moves that the dimensional variance be Granted subject to the petitioner fulfilling the following conditions:

1. Proposed digital pylon sign shall be limited to not more than twelve (12) message changes per hour – not to exceed one (1) change every five (5) minutes.

2. Petitioner(s) obtaining any, and all, necessary permits.

3. Strict compliance with the submitted site plan (or amended site plan as it may be applicable), all exhibits, and entire testimony provided during the respective hearing.

Chairman Saveory asks Attorney Engustian, if she accepts on behalf of her client, the conditions of approval just stipulated, understanding that strict compliance means that any deviation will necessitate revisiting the Zoning Board of Review, said revisit may be requested by either the Zoning Officer or any member of the Zoning Board of Review. Attorney Engustian responds on behalf of her client, that she fully understands and accepts the conditions just stipulated.

The motion is Seconded by Mr. Beauparlant.

Roll Call Vote:

Mr. Croke - Aye Reasonable petition.

Mr. Braga - Aye Reasonable considering the overall quantity and distance from the public right-of-way.

Mr. Beauparlant - Aye The relief is very minimal.

Mr. Cunha - Aye Concurs that the distance requires the greater size.

Chairman Saveory - Aye Concurs that the distance and odd lot configuration

requires greater size.

**Dimensional variances unanimously granted, subject to the
aforementioned conditions.**

IX. PROCEDURES

**Chairman Saveory announces that there are no procedures to be
discussed.**

X. ANNOUNCEMENTS

**Chairman Saveory announces that the next meeting of the Zoning
Board of Review is scheduled for Wednesday, 7 January 2015, at 7:00
PM, in the City of East Providence Council Chambers, City Hall, East
Providence, RI.**

XI. ADJOURNMENT

**Motion to adjourn by Mr. Croke. The motion is Seconded by Mr.
Braga and Unanimously voted to adjourn. Meeting is adjourned at
10:45 P.M.**

Edward Pimentel, AICP

Zoning Officer / Clerk

Secretary